

Federal Communications Commission

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DA 02-3090Before the
Federal Communications Commission
Washington, D.C. 20554

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In the Matter of

Amendment of Section 73.622(b),
Table of Allotments,
Digital Television Broadcast Stations.
(Harrisburg, Pennsylvania)MM Docket No. 01-208
RM-10205**REPORT AND ORDER**
(Proceeding Terminated)**Adopted: November 7, 2002****Released: November 15, 2002**

By the Chief, Video Division:

1. At the request of Harrisburg Television, Inc. ("Harrisburg"), licensee of station WHTM-TV, NTSC channel 27, Harrisburg, Pennsylvania, the Commission has before it the Notice of Proposed Rule Making, 16 FCC Rcd 16168 (2001), proposing the substitution of DTV channel 10 for station WHTM-TV's assigned DTV channel 57. NBC Subsidiary ("WCAU"),¹ licensee of station WCAU(TV), Philadelphia, Pennsylvania, and Harrisburg filed comments.² Harrisburg filed reply comments.

2. We believe the public interest would be served by substituting DTV channel 10 for DTV channel 57 since it would enable station WHTM-DT to operate on an in-core channel, while improving the signal coverage for viewers in the Harrisburg DMA. DTV channel 10 can be allotted to Harrisburg, Pennsylvania, as proposed, in compliance with the principle

¹ WCAU requests that the Commission condition Harrisburg's channel change to provide protection from any separate or cumulative interference that may be caused by a maximized WCAU-DT operation. We do not believe that it is necessary to impose a condition on the channel substitution at Harrisburg. There is nothing in the record or in our review to suggest that such a condition is warranted since Harrisburg's request meets all the technical requirements prescribed by the Commission's rules.

² Counsel for SJL Northeast License Subsidiary, LLC ("SJL"), licensee of station WTAJ-TV, Altoona, Pennsylvania, filed a Motion to Accept Late Filed Comments. SJL claims that the one-day delay in filing comments was due to confusion, in part, to the Commission's new paper filing procedures and the availability of the Electronic Comment Filing System. We deny SJL's request to accept late filed comments. We find that SJL's counsel has not provided a sufficient justification as to why he could not have filed SJL's comments in a timely fashion. SJL's counsel claims confusion because of changes in the Commission's filing procedures due to new security measures. However, the Commission issued three Public Notices: two on October 17, 2001, (DA 01-2430 and DA 01-2436) and a clarification on October 18, 2001, (DA 01-2451) which clearly delineated the new filing procedures. These public notices were released more than ten days before comments were due in this proceeding, providing ample time for counsel to seek clarification from the Commission's Secretary. Further, the Electronic Comment Filing System has never been an option for parties participating in broadcast allotment proceedings. See *Electronic Filing of Documents in Rulemaking Proceedings*, 13 FCC Rcd 11322 (1998) and Section 1.49(f) of the Commission's Rules. In any case, even if we allowed SJL's late comments, it had presented no basis for denial of the proposed channel change.

community coverage requirement of Section 73.625(a) at coordinates 40-18-57 N. and 76-57-02 W. Since the community of Harrisburg is located within 400 kilometers of the U.S.-Canadian border, concurrence from the Canadian government has been obtained for this allotment. In addition, we find that this channel is acceptable under the 2 percent criterion for *de minimis* impact that is applied in evaluating requests for modification of initial DTV allotments under Section 73.623(c)(2) for Station WHTM-DT with the following specifications:

<u>State & City</u>	<u>DTV Channel</u>	<u>DTV power (kW)</u>	<u>Antenna HAAT (m)</u>	<u>DTV Service Pop. (thous.)</u>
PA Harrisburg 1793	10	14	346	

3. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective December 30, 2002, the DTV Table of Allotments, Section 73.622(b) of the Commission's Rules, IS AMENDED, with respect to the community listed below, to read as follows:

<u>City</u>	<u>Channel No.</u>
Harrisburg, Pennsylvania	4, 10, *36

4. IT IS FURTHER ORDERED, That within 45 days of the effective date of this Order, Harrisburg Television, Inc. shall submit to the Commission a minor change application for a construction permit (FCC Form 301) specifying DTV Channel 10 in lieu of DTV Channel 57 for station WHTM-DT.

5. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

6. For further information concerning this proceeding, contact Pam Blumenthal, Media Bureau, (202) 418-1600.

FEDERAL COMMUNICATIONS COMMISSION

Barbara A. Kreisman
Chief, Video Division
Media Bureau